

**PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA
COMMISSION DIRECTIVE**

ADMINISTRATIVE MATTER

☐

DATE

December 30, 2020

MOTOR CARRIER MATTER

☐

DOCKET NO.

2020-263-E

UTILITIES MATTER

☒

ORDER NO.

2020-846

THIS DIRECTIVE SHALL SERVE AS THE COMMISSION'S ORDER ON THIS ISSUE.

ORDER GRANTING TEMPORARY 120-DAY EXTENSION OF AGREEMENT AND OTHER MATTERS

SUBJECT:

[DOCKET NO. 2020-263-E](#) - Cherokee County Cogeneration Partners, LLC,
Complainant/Petitioner v. Duke Energy Progress, LLC and Duke Energy Carolinas, LLC,
Defendant/Respondent - Staff Presents for Commission Consideration the Complaint and
 Request for Interim Relief, Filed on Behalf of Cherokee County Cogeneration Partners, LLC.

COMMISSION ACTION:

On December 10, 2020, the Commission held oral arguments on the Request by Cherokee County Cogeneration Partners, LLC ("Cherokee County Cogeneration") for Interim Relief. Cherokee County Cogeneration requests that the Commission act and extend the terms of the Power Purchase Agreements between Cherokee County Cogeneration and Duke Energy Carolinas, LLC and Duke Energy Progress, LLC (collectively "Duke Companies") before the Agreement expires on December 31, 2020. Both parties argued that the other party has not negotiated in good faith and fair dealing to renew the power purchase agreements between them which create questions of fact requiring determination by the Commission following a hearing.

As a result of the procedural conference held between the parties and the Commission Hearing Officer on December 15th, 2020, the Parties advised that they needed approximately three to four months to adequately conduct discovery and prepare pre-filed testimony and exhibits, and that they needed to continue discussions related to a procedural schedule but would follow up with the Hearing Officer. Today, the parties provided a Joint Status Report advising that they, together with ORS, reached an agreement on the mediators and plan to schedule mediation next week.

I move the Commission temporarily extend for a period of one hundred and twenty (120) days the current Power Sales Agreements between the Parties each dated June 28, 2012, effective between July 1, 2013 and December 31, 2020 ("Power Purchase Agreements"). Day one of the 120-day period is January 1, 2021 and the last day of that period is April 30, 2021.

I further move that Cherokee County Cogeneration and the Duke Companies are directed to conduct and conclude during this 120-day period any mediation, as well as any needed or intended discovery between them which is related to this proceeding.

I also move that Cherokee County Cogeneration and the Duke Companies shall provide a status report no later than the 60th day of this 120-day period, which is Monday, March 1,

2021.

I move the Commission cancel the hearing scheduled in this matter for January 26, 2021, and direct the Clerk to reflect such change on the Commission's Calendar.

Following the March 1st, 2021 Status Report from the Parties, I move the Commission direct the Clerk to prepare and propose to the Commission a procedural schedule with new hearing date in this matter as the Commission shall proceed to hold a hearing on this dispute unless the Parties otherwise resolve their issues.

I further move that the Commission shall retain jurisdiction in this matter during the 120-day period to resolve any issues and shall reserve the right to consider whether or not it is appropriate to subject the rates charged and/or paid by any Party during this 120-day period to true-up.

I so move.

PRESIDING: J. Williams

SESSION: Regular

TIME: 2:00 p.m.

	MOTION	YES	NO	OTHER	
BELSER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Present in Hearing Room
CASTON	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Present in Hearing Room
ERVIN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Voting via skype
POWERS	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Present in Hearing Room
THOMAS	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Voting via skype
C. WILLIAMS	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Present in Hearing Room
J. WILLIAMS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>Not Voting</u>	

(SEAL)

RECORDED BY: J. Schmieding

